

**NEW JERSEY NOISE CONTROL COUNCIL MEETING  
FEBRUARY 10, 2009  
MINUTES**

**NCC Attendees:** J. Lepis, , R. Hauser, A. Schmidt, J. Feder (pending), J. Surmay, S. Szulecki (pending), T. Pitcherello, J. Kapferer, N. Dotti, A. DiAngelo (pending), D. Triggs (DEP), E. Zwerling (RTNAC).

**Guests:** Mr. Bill Harclerode - Union Township (Hunterdon) Road Noise Group; Ms. Amy Switlyk – Chair, Union Township Environmental Commission

**Administrative**

Chairman Lepis ran the meeting. The minutes of the January 13 meeting were reviewed and adopted with minor corrections. The group welcomed Mr. Adam DiAngelo as a potential new member pending his confirmation from the Governor's Office.

**MAIN MEETING FOCUS – ROAD NOISE**

Bill Harclerode and Amy Switlyk ran through a prepared presentation on the various noise bills pending. Mssrs. Harclerode and Switlyk were seeking input and possibly support from the NCC. Their prime focus has been on diesel truck noise, (especially from Interstate Highway 78 which affects their localities), but much of the discussion focused on enforcement of motor vehicle noise regulations, in general. Mssrs. Harclerode and Switlyk are getting support from elected officials who are willing to provide legislative help. There are, however, questions on the best direction for this legislation. The presentation was frequently interrupted by comments from the NCC, and there was much interesting discussion on technical and implementation issues. Discussion topics applied to multiple bills.

**Engine Braking:** The greatest annoyance is engine braking noise when trucks run downhill, which is more severe than noise from normal level highway operation. Since allowing engine braking is beneficial from a safety standpoint, the sense of the group was that use of engine braking would continue and that this was something that needed to be worked around.

**Muffler Enforcement:** Some vehicle operators have eliminated their muffler systems or modified them to make them less effective. NCC members who had participated in the recent truck stop noise inspection exercise felt that there was a decided difference in noise between the original equipment (OEM) equivalent and tampered muffler systems. Significant headway can be made by ensuring that all vehicles had mufflers that were equivalent to OEM. Trucks plus mufflers must meet federal standards, which guarantee at least some level of effectiveness. Thus, enforcement of federal standards for mufflers would help.

Federal Preemption Affects Standards and Enforcement: Noise rules governing trucks are subject to federal preemption i.e. the noise standards are created federally, and localities cannot define different or stricter standards.<sup>1</sup> An issue with the federal truck noise standard is that measurements must be conducted at some distance from the vehicle and that there cannot be significant other noise at the site that would interfere with or corrupt measurements. The Federal government has delegated enforcement to the states, but there was question as whether localities also had the power to enforce.

Enforcement Opportunities are Limited: There are a number of potential opportunities for enforcing muffler or other noise restrictions, but there are also issues related to each.

- 1) Truck weigh-stations. Truck weights are subject to inspection at weigh stations situated on the highway. It was suggested that muffler inspection and noise enforcement could also take place at these locations. An issue is that the weigh stations are frequently in constrained spaces that would not permit measurement according to the federal noise standard. Also, weigh station locations often have excessive background noise that would interfere. However, federal noise standard measurements might be practicable at some weigh stations. Visual inspections for muffler presence or tampering could be performed at weigh stations, however, but there are issues limiting effectiveness of visual inspections.
- 2) Vehicle traffic “stops”: Because the enforcement officer is unlikely to have had noise training, any enforcement requiring measurements would not be practical. A statement by the officer that the noise was “loud” might not hold up in court. The enforcement officer could, however, perform visual inspection for muffler presence or tampering.
- 3) Periodic inspection: Most trucks are “self inspected,” where the owner performs the inspection and makes a certification regarding compliance. Small trucks can be inspected in the same stations as cars. In any case, an inspection station is not a good place to do noise measurements because it is often relatively small and enclosed. Conceivably, facilities could be established within the state for performing noise measurements as part of self-inspection and those facilities could be sited and arranged to facilitate measurements according to the federal standard.

Visual muffler inspection: Vehicle mufflers can be examined for obvious muffler presence or tampering. However, this has limitations. Mufflers can be internally altered, so tampering that reduced effectiveness might not be obvious. A replacement muffler might not be readily identifiable as such and might be substantially less effective than OEM. Presence of some mufflers is not visually obvious, so there is potential for erroneous violation citations.

Motorcycle mufflers are required to have a visual stamp of identification that links back to a manufacturers inspection certification. Such a mechanism would be helpful for truck mufflers.

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<sup>1</sup> This is not absolutely true. With some effort states like California have been able to establish different and stricter standards on vehicle emissions. However, the obstacles to doing something like this for noise were felt to be sufficiently onerous as to make pursuit not a worthwhile endeavor.

“Tightened” Federal standard: Although there was consensus that the noise situation could be improved by requiring compliance to the federal standard, NCC members pointed out that these standards were sufficiently lenient that some vehicles with no mufflers (i.e. “straight pipes”) complied. There was feeling that the standards could be “tightened.” However, achieving this would not be easy.

Development of a substitute, more implementable, measurement: The Federal measurement standards are not designed for enforcement of individual violations. There was question as to whether a simple easily implementable measurement could be developed that would track close enough to the federal measurement standard for use in screening violations. This would entail measurements taken sufficiently close to the source that other site noise would not interfere. This screening could be supplemented with a small number of sites distributed around the state that could measure according to the official federal standard. Parameters might set such that if a violator failed the screening, he/she would be likely to fail the formal test. A violator cited via screening, could erase the violation by producing an official “Pass” result.

## BILL SUMMARY

AR 151: Resolution Requests DEP, MVC Attorney General, and Division of State Police to adopt regulations necessary to address engine braking noise from diesel trucks.

Comment: Resolution is non-specific and requires expertise such as exists within NCC, to focus to what is doable.

A3579: Requires motor vehicle inspection to include federal noise level requirements

Comment: This is subject to the technical limitations of what can be done at inspection stations to measure according to the Federal standard. However, inspections could include visual inspection for presence or tampering. Inspector could also inspect for audible “unusual” noise. However, this might be imprecise and court challengeable. It might help to pursue federal certification and muffler stamping as long-term goal. Also, it might be possible to develop simplified screening supplemented by ability to verify violations at according to federal standard as described above.

A3341: Clarifies current law regarding noisy motor vehicle muffler; establishes penalty for commercial motor vehicle operations.

Comment: Support noise or smoke wording. Enforcement issues if alterations are not obvious, but could catch flagrant violations. There was discussion on the “knowingly and purposefully” language and whether that should be eliminated.

A603/S1404: Authorizes local enforcement officers to inspect trucks.

Comment: Noise not part of bill but potentially could be added. Could include visual inspection of muffler. Measurements probably not feasible. Question as to whether local officers could do inspections, since Federal delegated enforcement to states.

A2153: Doubles penalties for heavy-duty diesel trucks failing roadside emissions inspections.

Comment: Should this be amended to include noise? Issue is limitation of what can be done at roadside beyond visual inspection.

#### NEXT STEPS:

Since the discussion covered a range of topics and viewpoints, to help converge the issue, as a next step it was decided to try to document the meeting via minutes. It was agreed that Jerome Feder would prepare an initial draft, and members would add their input to this. It was also decided that someone [who?] would look at what other states are doing for ideas on what New Jersey should do.

#### **NEXT MEETING**

The next meeting will be on March 10 and will focus on the Model Noise Code.

Respectfully submitted:

Jerome Feder